IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 15793 of 2004

Between:

T.Madhusudan Reddy, s/o Sundara Rami Reddy,
Regional Transport Officer, Anantapur, r/o Anantapur.

..... PETITIONER

AND

1. The Government of AP rep., by its Principal Secretary,

Transport Roads and Buildings Department,
Secretariat, Hyderabad.
2. The Transport Commissioner, Andhra Pradesh, Hyderabad.
3. A.Ravi, State Representative before State Transport
Appellate Authority, M.J.Road, Hyderabad.
4. K. Ramdas, Regional Transport Officer,
Ongole, Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction particularly one in the nature of *Writ of Certiorari* after calling for the records relating to the interim order passed in OA No.4495/2004 dated 16-08-2004 by the Hon'ble A.P. Administrative Tribunal and quash the same as illegal, arbitrary and contrary to the Presidential Order and also contrary to the judgments of the Hon'ble Supreme Court

Counsel for the Petitioner: MR.M.PANDURANGA RAO

Counsel for the Respondent No.: GP FOR SERVICES II

The Court made the following:

ORDER:(Per Hon'ble Sri Justice G. Bikshapathy)

The writ petition is filed by the petitioner assailing the order passed by the A.P. Administrative Tribunal, Hyderabad in O.A.No.4495 of 2004, dated 16.08.2004.

2. The petitioner was the applicant before the Tribunal and he filed the claim with the following prayer:

> "It is, therefore, prayed that this Hon'ble Tribunal may be pleased to declare that the Sub. Rules (a) and (b) of Rule 3 of A.P. Transport Service Rules in so far as they provide for recruitment by transfer to the post of Regional Transport Officer from the categories of Superintendents/Special Category Stenographers in A.P. Ministerial Service of office of the State Transport Authority and Section Officers/Private Secretaries to Secretaries to Government of the Secretariat Departments are illegal and opposed to the A.P. Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) order, 1975 and in spite of the fact that the said rules have been suspended by this Hon'ble Tribunal and the Hon'ble Supreme Court has over-ruled the judgment which upheld the rule and set aside the same rule in the Labour Department, continuing the unofficial respondents in the Transport Department and seeking to further promote them as Deputy Transport Commissioner depriving the persons working as Regional Transport Officers who have been appointed in accordance with the rules is illegal, arbitrary and void and pass such other order or orders as the Hon'ble Tribunal deem it fit and proper."

3. While admitting the O.A., the Tribunal passed the following interim order:

> "Any promotions made in the meanwhile shall be subject to the result of this O.A. The present position of the applicant shall be maintained until further orders."

4. The learned counsel appearing for the petitioner submits that the very same interim order runs contrary to the decision of the Supreme Court reported in **V. Jagannadha Rao Vs State of Andhra Pradesh**. He further submits that the very same order was suspended by the Tribunal in another O.A. and the same

was challenged in the writ petition and the said writ petition was dismissed. Therefore, the learned counsel for the petitioner submits that the order of the Tribunal is wholly unsustainable.

5. The learned counsel for the respondents submits that it is only an interim order and the matter has to be decided finally on merits.

6. Even on merits also, no case is made out in view of the fact that the Supreme Court had decided the *inter se* seniority and that has become final, and therefore, the order needs no interference. It is also noted from the counter filed by the official respondents in the writ petition that the Departmental Promotion Committee was met on 10.01.2005 and considered the names of the Regional Transport Officers including the name of the petitioner Sri T. Madhusudhana Reddy, Regional Transport Officer and the final list was prepared consisting of 8 names and the name of the petitioner was not figured in the list. The following is the extract from the list:

> "The DPC has met on 10.01.2005 and considered the names of Regional Transport Officers including the name of the petitioner Sri T. Madhusudhana Reddy, Regional Transport Officer. The DPC after verifying the records of the officers, recommended the names of certain Regional Transport Officers to be included in the panel, and the Government have approved the panel of Regional Transport Officers for temporary promotion as Deputy Transport Commissioners in the following order subject to the finalization of provisional seniority list and subject to the out come of O.As pending before the Honourable Andhra Pradesh Administrative Tribunal and writ petition pending before the Hon'ble High Court of Andhra Pradesh.

1. Smt. G. Mamatha Prasad
2. Sri P. Narsaiah (against S.C. roster point)–Promotion to be deferred.
3. Smt. L.S.M. Ramasree
4. Sri M. Praveen Rao
5. Sri S. Venkateshwar Rao
6. Sri K. Ramdas
7. Sri A. Ravi

8. Sri V. Janakiramulu”

7. It is submitted by the learned counsel for the respondent that even though the Tribunal has ordered that the status quo of the petitioner shall be maintained without allowing him to get promotion, the name of the petitioner was found not fit for inclusion even in the list, while considering his case for promotion, and therefore, the petitioner has no case for interference of this Court.

8. We have heard the learned counsel for the petitioner.

9. It is only an interim order and even the name of the petitioner was not put in the final list while considering his case for promotion, and therefore, we are not inclined to interfere with the order of the Tribunal and we feel it desirable to direct the Tribunal to dispose of the O.A. on merits.

10. Accordingly, we dispose of the writ petition. However, we made it clear that promotions if any, will be subject to the result of O.A. No costs.

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(G. BIKSHAPATHY, J)

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(P.S. NARAYANA, J)

Date: 03.03.2005.

Ksn

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Principal secretary, Government of AP

Transport Roads and Buildings Department,
Secretariat, Hyderabad.
2. The Transport Commissioner, Andhra Pradesh, Hyderabad.
3. The Registrar, A.P. Administrative Tribunal, Hyderabad.

4. 2 CCs to G.P. for Services-I, High Court Buildings, Hyderabad (OUT).

5. 2 CD copies

6. 1 CC to MR.PANDURANGA RAO

7. 1 CC to MR.NAVEEN RAO

*Form-NIC-OGS/WP{**RS**}*